IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED:17-8-2006

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THE HONOURABLE MR.JUSTICE P.JYOTHIMANI

W.P.No.21390 of 2006

and
WPMP No. 1 of 2006

S.Muthuvel ... Petitioner

Versus

1.The Director of Elementary Education
Chennai-6.

2.The District Elementary Educational Officer,
Tuticorin, Tuticorin District.

3.The Assistant Elementary Officer,
Kovilpatti, Tuticorin district.

4.The Correspondent,
E.V.A.Vallimuthu Primary School,
Velayudapuram, Kovilpatti,
Tuticorin District. .. Respondents

Writ Petition filed under Article 226 of Constitution of India praying for the issuance of Writ of Mandamus directing the respondents to provide re-employment till the end of the academic year i.e. up to 31.5.2007 in terms of the Government orders in G.O.Ms.No.1643 Education dated 27.10.1988 with all consequential benefits.

For Petitioner :Mr.S.Kama Devan
For Respondents 1 to 3:Mr.Edwin Prabakar,
Government Advocate.
For 4th Respondent :Mr.C.Selvaraj Senior Counsel
for Mr.S.Mani.

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ORDER

This writ petition has been filed for a direction to the respondents to provide re-employment till the end of the academic year upto 31.5.2007 in terms of the Government Orders in G.O.Ms.No.1643, Education dated 27.10.1988.

2.By consent of either side, the writ petition itself is taken up for final hearing and disposed of. Heard the learned counsel appearing for the petitioner as well as the learned counsel for respondents.

3.The petitioner was working as a Secondary Grade Teacher in the 4th respondent school having joined service on 29.9.1980. He attained superannuation on 30.6.2006. It was in the middle of academic year. By virtue of the G.O.Ms.No.249, Education dated 9.2.1959, in respect of teachers, who retired in the middle of academic year, they should be allowed for re-employment till the end of academic year and the said G.O. came to be reiterated in G.O.Ms.No.1643, Education dated 27.10.1988.

4.In the present case it is seen that the Secretary of 4th respondent himself has recommended for the re-employment of the petitioner after 30.6.2006 on the basis he has retired from service in the middle of the academic year.

5.In these circumstances, the petitioner relying upon the G.O.Ms.No.1643 Education dated 27.10.1988 has filed the present writ petition for a direction to the respondents that he is entitled for re-employment till the end of academic years namely 21.5.2007. It is seen from the said G.O.Ms.No.1643, Education dated 27.10.1988 that such a right of re-employment shall be conferred provided the pre-requisite conditions are satisfied, namely the character and the conduct of the teachers should be satisfactory and they should be physically fit to continue in service.

6.It is not even the case of the 4th respondent school that the conduct and the character of the petitioner was not satisfactory or the petitioner was not physically fit to continue his service. However the fact remains that it is the school committee of the 4th respondent being the management of the school, which has to decide the re-employment based on the Government Orders.

7.The learned Counsel appearing for the petitioner while placing reliance on a judgement of a Division Bench of this Court in the matter of S.Sundaram vs. The Secretary, C.S.I. Diocese of Madras and others reported in I.L.R. (1994) 3 Madras 936 wherein while construing the relevant G.O., which confers the right of re-employment, the Division Bench has pointed out that such re-employment has to be given as a matter of course or routine and a direction need not even be asked for by the concerned teacher, would contend that it is the duty of the institution to continue the said teacher till the end of academic year, provided the conditions

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are satisfied.

8.The learned counsel for the petitioner would also place reliance on a judgement of this court in the case of C.Harris Vs. District Elementary Educational Officer, Coonoor, Nilgiris District and another reported in (2006)1 M.L.J. 652 to support his contention that such a right of re-employment is a matter of course, provided the conditions stipulated in the G.O. are satisfied.

9.There is absolutely no quarrel about the right of re-employment. The learned senior counsel for the 4th respondent Mr.C.Selvaraj,would submit that it is true if conditions are satisfied the petitioner is entitled for re-employment. However the school committee of the 4th respondent by over sight has not considered the issue of re-employment and therefore, the school committee of the 4th respondent will certainly consider the same in the light of said Government order from the date on which the petitioner is entitled for re-employment in the said institution based on the judgement which has been relied upon by the learned counsel for the petitioner.

10.I have no hesitation to come to the conclusion that the right of re-employment is a matter of course, however subject to the said conditions. In any event as it is correctly contended by the learned counsel for the 4th respondent that such re-employment has to be given by the school committee of the 4th respondent. It is admittedly true that the school is governed by the Tamil Nadu Recognised Private Schools (Regulation)Act.

11.In view of the above the 4th respondent is directed to issue order of re-employment to the petitioner on his satisfying all the requisite conditions of G.O.Ms.No.1643 dated 27.10.1988. Such order of re-employment shall be given to the petitioner with effect from 1.7.2006 with all monetary benefits subject to the above conditions. The said school committee shall pass orders within a period of two weeks from the date of receipt of a copy of this order. Accordingly the writ petition is disposed of. No costs. Consequently the connected M.P.No.1 of 2006 is closed.

Sd/-
Asst. Registrar.

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Sub Asst. Registrar.

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Tuticorin District.

+ 1 CC to the Government Pleader SR NO 36805

+ 1 CC To Mr. S.Mani, Advocate SR NO. 36480

+ 1 CC To Mr. Kamadevan, Advocate SR NO. 36774

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